

**Federal Defenders**  
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April 4, 2020

**By Hand and ECF**

The Honorable Lois Bloom  
United States Magistrate Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**RE: United States v. Keith Levy, 20 CR 87 (RPK)**

Dear Judge Bloom:

Please accept this letter *in lieu* of a formal motion seeking to modify the conditions of Mr. Levy's release as ordered by Your Honor on March 17, 2020. *See* Dkt. No. 15. Specifically, we request that the Court vacate the arrest warrant issued on March 17, 2020, thereby lifting the federal detainer. I am submitting this application to Your Honor, as the magistrate who issued the original order setting the conditions of Mr. Levy's release. If the Court believes this application properly lies with the duty magistrate, I would ask that the Court direct this request to the appropriate magistrate.

As Your Honor is aware, Mr. Levy is currently detained on Rikers Island pursuant to a New York State Parole Detainer. On March 17, 2020, the parties appeared before Your Honor and defense counsel moved the Court to release Mr. Levy on his own recognizance. The government consented to this request, with the understanding that Mr. Levy would be transferred into custody on Rikers Island.

This application was made at Mr. Levy's request, due to concerns regarding the expense of staying in contact with his family and loved ones while incarcerated at the MDC, which charges higher fees for phone calls. Given the Bureau of Prisons' March 16, 2020 nationwide suspension of all legal visitation, defense counsel had additional concerns regarding the ability to effectively prepare for Mr. Levy's trial should he remain in federal detention.<sup>1</sup>

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<sup>1</sup> Mr. Levy's trial was scheduled to begin on April 27, 2020 and was not among those administratively adjourned pursuant to Administrative Order No. 2020-06, issued

United States v. Keith Levy

Page 2 of 3  
April 4, 2020

Mr. Levy was transported to Rikers on March 17, 2020. He is currently housed at the Anna M. Kross Center, in a dormitory with approximately 50 beds, with no opportunity to practice social distancing, or to take any of the other necessary hygienic steps recommended by the CDC.

On March 18, 2020, the first confirmed case of COVID-19 on Rikers Island was reported. By April 2, 2020, the number of confirmed cases on Rikers rose to 231 inmates and 225 correctional staff members.<sup>2</sup> Ross Macdonald, the Chief Medical Officer of New York City's Correctional Health Services, has described Rikers Island as a "Public health Disaster."<sup>3</sup> The "5.1% infection rate was nine times higher than in all of New York City, 11 times higher than in Italy's Lombardy region, and 44 times higher than in China's Hubei province, all major areas for the coronavirus outbreak."<sup>4</sup>

In response to the unprecedented health crisis at Rikers Island, Governor Cuomo announced that he intended to release 1,100 inmates held on parole violations, including 600 parolees currently detained at the facility.<sup>5</sup> The Legal Aid Society has also filed a number of writs seeking the release of inmates held on parole detainers.<sup>6</sup>

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by Chief Judge Mauskopf on March 16, 2020. However, on March 18, 2020, Judge Kovner, issued an order in this case excluding time under the Speedy Trial Act under 18 U.S.C. §§3161(a)-(c);(h)(7)(A). *See* Dkt. No. 13. Further, given the state of the national emergency, it is unclear when a jury trial may actually be held.

<sup>2</sup> *See*, J. Craven, *Coronavirus Cases are Spreading Rapidly on Rikers Island*, Slate, April 2, 2020; <https://slate.com/news-and-politics/2020/04/rikers-coronavirus-cases-increase.html>.

<sup>3</sup> M. Flynn, *Top doctor at Rikers Island calls the jail a 'public health disaster unfolding before our eyes*, Washington Post, March 31, 2020; [www.washingtonpost.com/nation/2020/03/31/rikers-island-coronavirus-spread/](http://www.washingtonpost.com/nation/2020/03/31/rikers-island-coronavirus-spread/).

<sup>4</sup> *See* <https://www.reuters.com/article/us-health-coronavirus-new-york-rikersisl/rikers-island-jail-officers-union-sues-new-york-city-over-coronavirus-idUSKBN21K3KR>.

<sup>5</sup> *See*, <https://www.nydailynews.com/coronavirus/ny-coronavirus-new-york-inmates-released-parole-violations-20200327-jyrdhpxzdbbtvc6ei7fy7ebwq-story.html>.

<sup>6</sup> *See*, <https://www.legalaidnyc.org/news/legal-aid-files-fourth-lawsuit-to-free-100->

**United States v. Keith Levy**

Page 3 of 3  
April 4, 2020

I have been in contact with the attorney representing Mr. Levy in his parole matter. She has informed me that the federal detainer will bar Mr. Levy from being eligible for any of the relief be offered to parolees detained on Rikers Island.

Should the Court grant this request, Mr. Levy will to report Pretrial Services immediately if released from custody. The Federal Defenders' Mitigation Specialists will work with Mr. Levy to ensure that he secures placement in the New York City Shelter System.

For the foregoing reasons, we respectfully request, that the Court remove the federal detainer, or in the alternative grant a hearing. We thank the Court in advance for Your attention to this matter.

Very truly yours,

/s/

Michelle A. Gelernt  
Deputy-in-Charge  
(718) 330-1204

cc: Hon. Rachel P. Kovner [by ECF]  
Clerk of the Court [by ECF]  
AUSA Andrew Wang [by email]  
PTSO Robert Stehle [by email]

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clients-from-parole-violation-holds-at-rikers-island/.